

**Internal Revenue Service**  
P.O. Box 2508  
Cincinnati, OH 45201

**Department of the Treasury**

**Release Number: 201335022**  
**Release Date: 8/30/2013**  
**Date: June 7, 2013**

**Employer Identification Number:**

**Contact person - ID number:**

**Contact telephone number:**

**LEGEND:**

X= program  
Y= entities  
E= scholarship 1  
F = scholarship 2  
c = dollar amount

**UIL:**

4945.04-04

Dear :

You asked for advance approval of your employer-related scholarship grant procedures under Internal Revenue Code section 4945(g). This approval is required because you are a private foundation that is exempt from federal income tax. You requested approval of your scholarship program to fund the education of certain qualifying students.

**Our determination**

We approved your procedures for awarding employer-related scholarships. Based on the information you submitted, and assuming you will conduct your program as proposed, we determined that your procedures for awarding employer-related scholarships meet the requirements of Code section 4945(g)(1). As a result, expenditures you make under these procedures will not be taxable.

Also, awards made under these procedures are scholarship or fellowship grants and are not taxable to the recipients if they use them for qualified tuition and related expenses (subject to the limitations provided in Code section 117(b)).

**Description of your request**

Your letter indicates you will operate an employer-related scholarship program called X. The purpose of X is to support the intellectual and personal development of the employees of Y and their dependents through ongoing education and training; and to advance the candidate's personal commitment to improving the lives of others through service and responsibility. The X consists of E and F.

## **Terms of the Scholarship Program**

- You will offer academic scholarships to qualified employees of Y and their dependents. The program will not be used by Y to recruit employees or to induce employees to continue their employment.
- Selection of recipients will be by an independent committee, consisting of individuals who are not shareholders, officers, employees or dependents of such individuals.
- Recipients will receive a one-time grant award of c dollars.
- The X is intended to help an employee or dependent of the employee to pursue his or her academic endeavors and/or advance personal interests. The educational studies need not relate to the employee's current position or responsibilities.
- X may take classes in person or online at any trade school, college or university. Alternatively, X may take classes at a community –based organization or use the funds to attend a conference.
- The funds from X are used to cover the cost of tuition, registration fees, academic tutoring, academic counseling services, test preparation courses and testing fees, college or graduate school application fees, books, or study materials.
- Each recipient of X must sign a scholarship agreement and adhere to its terms and conditions.

## **Qualifications and Criteria**

- To be eligible for E, the candidate must be a current full-time employee of the employer. There is no minimum employment period of employment required for eligibility for E.
- To be eligible for F, the candidate must be a child (including adopted, step child) of an employee of Y who, at the time of his or her application, is a high school senior or graduate from high school.
- Your selection committee will consider the candidate's prior academic performance at the highest level of education they have completed (high school, college and/or graduate) as well as the rigor of the proposed studies. A scoring sheet will be used to rank and rate the applicants based on the following criteria:
  - Strong desire to advance through education;
  - Willingness to serve others and benefit the community;

- Exemplary character, integrity and ethics as reflected in the candidate's essay and recommendation;
  - How do the candidate's essay, recommendation, and resume convey a passion and commitment to personal achievement, demonstrated through hard work, consistent effort, and performance both in school and the community?
- The best candidates will be individuals who have demonstrated the personal qualities described below, and who are most likely to achieve personal success through their own efforts and initiatives with your financial support.
- Applicants for E and F will be required to submit to you the following:
  - Completed application that includes a personal essay;
  - Resume;
  - Letter of Recommendation – by an individual unrelated to the candidate, who is qualified to comment on the candidate's academic merit, exemplary character, integrity and ethics; and demonstrated willingness to serve others and benefit the community, through volunteer and work experience;
  - Official Transcript(s) for current studies.
- The recipient must demonstrate the following personal characteristics:
  - Exemplary character, integrity and ethics;
  - A passion and commitment to personal achievement, demonstrated through hard work, consistent effort, and performance in school and the community;
  - Strong desire to advance through education, and
  - Demonstrated willingness to serve others, benefits the community, through volunteer, and work experience. It is your philosophy that every hand up is from one who has achieved requires another hand to be extended down to the next person.
- Each applicant shall submit a written application to you, which sets forth the characteristics listed above. The application shall include a personally written statement of intent that expresses the background and educational goals of the applicant. Such statement must include a personal commitment to use the scholarship award to his or her best ability and to extend help to others, as the recipient may be able to do in the future.
- At the completion of the studies, the recipient must submit a final report demonstrating that the studies were completed and a passing grade received.
- Every applicant must be a citizen or legal resident of the United States.

- The applicant must certify that he or she has not been convicted of any felony, is not currently and will not in the future, utilize non-prescribed narcotics or prohibited substances, and will not drive while intoxicated or have consumed liquor beyond the legal limits of the state in which he or she is driving.
- You will not terminate a qualified scholarship because the parent terminates employment with Y.

### **Limitations**

- Any violation of the above terms, qualifications and criteria, during the period of the scholarship will be grounds for suspension or termination of funding.
- Scholarships awarded but remaining unused or unclaimed by the end of six months are abandoned and the funds made available to other applicants.
- No transferring of scholarship funds to any other individual or educational institution.
- Scholarships for E shall not exceed either of the following criteria:
  - The number of grants awarded under the scholarship program in any year to such children does not exceed 25% of the number of employees' children who (i) were eligible, (ii) were applicants of such grants, and (iii) were considered by your selection committee in selecting the recipients of grants in that year, or
  - Ten percent of the number of employees' children who can be shown to be eligible for grants (regardless of whether they submitted an application) in that year.
  - The number of E and F scholarships that will awarded each year will be determined by your board of directors and will meet the required percentage test. No more than ten percent of qualified E applicants will be awarded scholarships. No more than 25 percent of qualified F applicants will be awarded scholarships or ten percent of the number of eligible dependents.

### **Funding**

- Scholarship payments are made directly to the educational institution for the benefit of the recipient upon submission of an invoice from the educational institution or vendor.

### **Reporting**

- The recipient is required to provide to you a certified school transcript of confirmation of completion from the institution where the studies were completed.

### **Publicizing the Scholarship Program**

You will publicize the scholarship program through:

- E-mail – A month in advance of the open application period, all staff will be e-mailed copies of the applications with an overview of the application process, qualifications and criteria.
- Flyer – A flyer will be posted a minimum of one month in advance of the open application period in the common areas of all Y offices. An electronic version of the flyer will be included in the all staff e-mail.
- Brown Bag Lunch – your executive director will hold a firm-wide video conference to discuss the program, application process, as well as the qualifications and criteria, one month before the open application period.
- E-blast – An article about the program will be included in a monthly firm wide e-blast that highlights philanthropy and employee volunteerism, the month prior to the open application period.
- Studio Talk – A month in advance of the open application period, program information with a link to the applications are posted on Y's intranet.

### **Basis for our determination**

The law imposes certain excise taxes on the taxable expenditures of private foundations (Code section 4945). A taxable expenditure is any amount a private foundation pays as a grant to an individual for travel, study, or other similar purposes. However, a grant that meets all of the following requirements of Code section 4945(g) is not a taxable expenditure.

- The foundation awards the grant on an objective and nondiscriminatory basis.
- The IRS approves in advance the procedure for awarding the grant.
- The grant is a scholarship or fellowship subject to Code section 117(a).
- The grant is to be used for study at an educational organization described in Code section 170(b) (1) (A) (ii).

Revenue Procedure 76-47, 1976-2 C.B. 670, provides guidelines to determine whether grants a private foundation makes under an employer-related program to employees or children of employees are scholarship or fellowship grants subject to the provisions of Code section 117(a). If the program satisfies the seven conditions in sections 4.01 through 4.07 of Revenue Procedure 76-47 and meets the applicable percentage tests described in section 4.08 of Revenue Procedure 76-47, we will assume the grants are subject to the provisions of Code section 117(a).

You represented that your grant program will meet the requirements of either the 25 percent or 10 percent percentage test in Revenue Procedure 76-47. These tests require that:

- The number of grants awarded to employees' children in any year won't exceed 25 percent of the number of employees' children who were eligible for grants, were applicants for grants, and were considered by the selection committee for grants, or
- The number of grants awarded to employees' children in any year won't exceed 10 percent of the number of employees' children who were eligible for grants (whether or not they submitted an application), or
- The number of grants awarded to employees in any year will not exceed 10 percent of the number of employees who were eligible for grants, were applicants for grants, and were considered by the selection committee for grants.

You further represented that you will include only children who meet the eligibility standards described in Revenue Procedure 85-51, 1985-2 C.B. 717, when applying the 10 percent test applicable to employees' children.

In determining how many employee children are eligible for a scholarship under the 10 percent test, a private foundation may include only those children who submit a written statement or who meet the foundation's eligibility requirements. They must also satisfy certain enrollment conditions.

You represented that your procedures for awarding grants under this program will meet the requirements of Revenue Procedure 76-47. In particular:

- An independent selection committee whose members are separate from you, your creator, and the employer will select individual grant recipients.
- You will not use grants to recruit employees nor will you end a grant if the employee leaves the employer.
- You will not limit the recipient to a course of study that would particularly benefit you or the employer.

**Other conditions that apply to this determination:**

- This determination only covers the grant program described above. This approval will apply to succeeding grant programs only if their standards and procedures do not differ significantly from those described in your original request.
- This determination is in effect as long as your procedures comply with sections 4.01 through 4.07 of Revenue Procedure 76-47 and with either of the percentage tests of section 4.08. If you establish another program covering the same individuals, that program must also meet the percentage test.
- This determination applies only to you. It may not be cited as a precedent.
- You cannot rely on the conclusions in this letter if the facts you provided have changed substantially. You must report any significant changes to your program to the Office of at::

## Internal Revenue Service

- You cannot award grants to your creators, officers, directors, trustees, foundation managers, or members of selection committees or their relatives.
- All funds distributed to individuals must be made on a charitable basis and further the purposes of your organization. You cannot award grants for a purpose that is inconsistent with Code section 170(c) (2) (B).
- You should keep adequate records and case histories so that you can substantiate your grant distributions with the IRS if necessary.

Please keep a copy of this letter in your records.

If you have questions, please contact the person listed at the top of this letter.

Sincerely,

Holly O. Paz  
Director, Exempt Organizations  
Rulings and Agreements